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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
SALVATORE, LYNDA	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/643,781	HORST SCHONEBECK	
	Examiner	Art Unit	
	Lynda M Salvatore	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 August 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *09/07/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: It appears that the recitation of the "group consisting a textile fabric and a imitation leather" should recite the "group consisting *of* a textile fabric and a imitation leather". In other words, the word "of" is missing in the sentence. For purposes of examination, the Examiner will consider claim 17 as a material selected from the group consisting "of" a textile fabric and a imitation leather. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3,6, 13 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Burmester et al., US 4,486,493.

The patent issued to Burmester et al., teaches a cushion body comprising a covering material (2), buffer layer (3), a spring body (1) and a foam layer (4). With regard to the covering material, Burmester et al., teaches highly permeable fabric (Column 4, 49-53). With regard to the buffer layer, Burmester et al., teaches bonded fabric (Column 4, 20-47). With regard to the spring layer, Burmester et al., also teaches a bonded fabric (Column 3, 55-Column 4, 20). With regard to the foam layer, Burmester et al., teaches soft polyurethane foam (Column 3, 50-55). With specific regard to claim 1, the Examiner considers the buffer layer (3) equivalent to the

cover layer and the spring layer (1) equivalent to the barrier layer. The layers are joined together in the order according to claim 1 (see figure 1). With specific regard to providing an air permeable barrier fleece layer, Burmester et al., teaches that the spring layer (1) is thin and comprises hydrophilic fibers which are combined to form a spatially oriented network (Column 1, 65-Column 2, 12). Burmester et al., specifically discloses that hollow voids are present in the fiber network of the spring body (1) (Column 2, 10-15). Thus, the Examiner considers the limitation of providing an air permeable fleece met with the spring layer (1) of Burmester et al.

With specific regard to claim 3, in this instance, the Examiner considers the cover (2)equivalent to the claimed decorative cover and the buffer layer (3) is equivalent to the claimed soft intermediate layer of cellular material disposed between the decorative layer and the barrier layer (see figure 1). The layers are joined together in the order according to claim 3 (see figure 1).

With specific regard to method of forming the interior lining recited in claims 1,2,6, and 13 the Examiner considers said limitations not germane to the final product structure. The presence of process limitations on product claims in which the product does not other patentably distinguish over the prior art, cannot impart patentability to the product (*In re Stephens*, 145 USPQ 656). It appears that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process. As such, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product (*In re Marosi*, 218 USPQ 289,292).

With specific regard to claim 18, the cushion body is disclosed as air permeable (Column 1, 1-12).

4. Claims 1,2,6,13,17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Volland et al., US 4,618,532.

The patent issued to Volland et al., teaches a seat comprising an air permeable cover and a foam core (Title and Abstract). Volland et al., teaches a covering comprising an outermost textile layer and a bonded fabric laminated thereto (Column 3, 40-46). Thus, the Examiner considers the outermost layer equivalent to the decorative cover and the bonded fabric equivalent to the barrier layer. With regard to the air permeable limitations, Volland et al, teaches that the covering is air permeable (Title).

With specific regard to method of forming the interior lining recited in claims 1,2,6,13 and 19, the Examiner considers said limitations not germane to the final product structure. The presence of process limitations on product claims in which the product does not other patentably distinguish over the prior art, cannot impart patentability to the product (*In re Stephens*, 145 USPQ 656). It appears that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process. As such, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product (*In re Marosi*, 218 USPQ 289,292).

With regard to claim 19, Volland et al., teaches fixing the multi-layer covering to the foam core (Column 4, 37-40). To ensure that that the covering is closely adapted to the foam core, straps (5) are provided and firmly joined to the foam core during the foaming process (Column 4, 40-48).

Claim Rejections - 35 USC § 102/103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 10 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Burmester et al., US 4,486,493 and/or Volland et al., US 4,618,532.

The prior art of Burmester et al., and/or Volland et al., fail to teach the claimed air permeability property, however it is the position of the Examiner that said property is inherent to the air permeable materials taught by Burmester et al., and/or Volland et al. Support for said presumption is found in the teachings of Burmester et al., and/or Volland et al., which explicitly teach providing air permeable materials for use as coverings. Moreover, absent any specific limitations as to the chemical and/or structural limitations, which provide for the claimed air permeability, the burden is shifted to Applicant to evidence that the air permeable materials taught by Brumester et al., and/or Volland et al., do not exhibit the claimed permeability property and thus are not inherent. *In re Fitzgerald* 205 USPQ 594

In addition, the presently claimed air permeability property would obviously have been present once the air permeable materials of Burmester et al., and/or Volland et al., are provided. *In re Best*, 195 USPQ at 433

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 11,12,14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester et al., US 4,486,493 and/or Volland et al., US 4,618,532 as applied to claim 1 and further in view of O'Brien et al., WO 01/26932 A1.

The prior art of Burmester et al., and/or Volland et al., does not teach providing a fiber mat on the rear side of the foam layer, however, the published PCT application issued to O'Brien et al., teaches a prior art trim panel comprising a foam backing (10) next to a porous fiberglass mat (12). O'Brien teaches that a urethane foam is sprayed on foam backing (10) such that it expands to produce foam (16) (page 1, 14-20 and Figures 1 and 2). The prior art trim further comprises a foam backed cloth (22) comprising a cloth layer (24) and a foam layer (26). The prior art trim further includes an adhesive/barrier layer (28). The published prior PCT also teaches an improvement over the prior art, which comprises all of the above layers except the adhesive/barrier layer (Figures 5 and 6 and Page 5, 15-20). With regard to claim 14, it is the position of the Examiner that since the foam backing (10) rises such that it expands and extends

through porous fiberglass mat (12) to form foam layer (16), the limitation of providing a fiber reinforced foam would inherently be met. It is the position of the Examiner that the fiberglass mat is provided as structural reinforcement for the foam layer.

Therefore, motivated by the desire to provide a reinforced cushioning element it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the foam layers taught by Burmester et al., and/or Volland et al., with the fiberglass mat taught by O'Brien et al.

With specific regard to method of forming the interior lining recited in claims 11 and 14, the Examiner considers said limitations not germane to the final product structure. The presence of process limitations on product claims in which the product does not other patentably distinguish over the prior art, cannot impart patentability to the product (*In re Stephens*, 145 USPQ 656). It appears that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process. As such, the burden shifts to Applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product (*In re Marosi*, 218 USPQ 289,292).

8. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester et al., US 4,486,493 and/or Volland et al., US 4,618,532 as applied to claim 1 and further in view of Pelzer et al., US 6,010,870.

The prior art of Burmester et al., and/or Volland et al., does not teach a barrier layer comprising cellulose fibers bonded with a bonding agent, however, the patent issued to Pelzer et al., teaches a non-woven fleece composite material comprising a binder and natural fibers such as cotton and sisal (Abstract and Column 4, 8-16). Pelzer et al., teaches that the bonded non-

woven fabrics are suitable for use in the automotive field to provide trims, linings and/or covers (Column 3, 48-60). Pelzer et al., teaches providing composite materials for the automotive field which are made from biodegradable materials (Column 3, 61-65).

Therefore, motivated by the desire to provide a barrier layer, which is biodegradable, it would have been obvious to form the foam composites taught by Burmester et al., and/or Volland et al., with the biodegradable composite bonded fleece taught by Pelzer et al.

With regard to claim 9, the prior art does not teach the claimed weight range of the barrier layer, however, it is the position of the Examiner that it would be obvious to form the barrier layer with a suitable basis weight as a function of the desired end use. It has been held that discovering the optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272,205 USPQ 215 (CCPA 1980)

8. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burmester et al., US 4,486,493 and/or Volland et al., US 4,618,532 as applied to claim 1 and further in view of Marcovecchio, US 2002/0176980 A1

The prior art of Burmester et al., and/or Volland et al., fails to teach gluing the layers together with a pulverulent or powdered resin/glue, however, it is the position of the Examiner that it would be obvious to join the layers in the foam composite together via conventional methods known in the art such as gluing. Accordingly, powdered glue/resins are conventional gluing materials and are commonly used to fix composite layers together especially when permeability is a factor. Specifically powder will not negatively impact the permeability properties like film or aqueous resins. For example, the US patent publication issued to

Marcovecchio teaches a composite suitable for use as a vehicle interior trim (Title and Abstract). The layers taught by Marcovecchio are bonded with powdered glue (Section 0050).

Therefore, motivated by the desire to employ conventional gluing methods suitable for use in permeable composite materials, it would have been obvious to one having ordinary skill in the art to form the foam composite materials taught by Burmester et al., and/or Volland et al., with the powdered glue taught by Marcovecchio et al.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 6, 2005
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